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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,500	05/25/2001	Shayne Young	5226-01500/EBM	4454

7590 05/18/2006
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EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/866,500	YOUNG, SHAYNE	
	Examiner	Art Unit	
	Lalita M. Hamilton	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04142004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-42 are rejected for the following reasons: The claimed invention is directed to non-statutory subject matter. The claimed subject matter does not appear to fall under any of the statutory categories. Applicant claims a method of managing a portfolio with the end result being a "potential profit". The claims are supposed to have a "useful", "specific, substantial and credible" result. With no environment or even implied practical application, it's not clear what the "specific" result would be. See MPEP 2107 for more details on "specific, substantial and credible". The claims are not "concrete"; the result may not be repeatable or predictable.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims do not appear to fall under any of the statutory categories. (Please see 101 rejection above).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Rhee (2002/0138383).

Rhee discloses a method and corresponding system carrier medium for portfolio management comprising providing a portfolio of securities, wherein the portfolio of securities comprises at least one position in at least one security, each position comprising a quantity of shares of each of the at least one securities bought or sold and an entry price, receiving an exit order to exit at least a portion of at least one position in a security, wherein the exit order comprises an exit price for the security, determining a potential profit comprising a difference between the entry price and the exit price for each share of the security in the portfolio, and selecting one or more shares of the security from the portfolio to be included in the portion exited, wherein the selected shares comprises a potential profit less than or equal to a potential profit of each share of the security not selected (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91--rebalancing); receiving the exit order, determining the potential profit and selecting the one or more shares occurs in approximately real-time (p.2, 21-24, 35; p.3, 37-50; p.4,

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60; and p.4, 62 to p.5, 91); the at least one security is selected from the group consisting of stocks, options contracts, futures, bonds, mutual funds and cash (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); the exit price comprises a bid price or an ask price (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); the entity price comprises a purchase price or a sale price (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); wherein the software is executable on a computer, and wherein the computer is coupled to a computer network (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); software is operable to implement the method, wherein the software is executable on a computer, wherein the computer is coupled to a computer network, and wherein the computer network comprises the Internet (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); each of the at least one positions comprises a date of entry and a time of entry (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); providing the portfolio of securities comprises receiving configuration data, wherein the configuration data identifies at least the entry price, an entity quantity, a date of entry and a time of entry for each of the at least one positions (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); exit order further comprises an exit quantity (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); receiving the exit order comprises receiving configuration data, and wherein the configuration data identifies at least an exit price and an exit quantity (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); determining a profit or loss for the portion exited by determining a difference between the exit price and the entry price of the portion and multiplying the difference by the exit quantity associated with the exit order (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to

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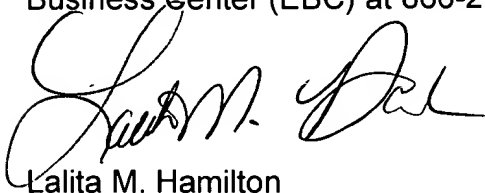
p.5, 91—mathematical functions); the portion exited comprises a quantity of shares, subtracting the quantity of shares exited from the exit quantity to determine an additional exit quantity, altering the portfolio of securities, wherein altering the portfolio comprises removing the quantity of shares exited from the portfolio, and altering the exit order such that the exit quantity equals the additional exit quantity if the additional exit quantity is greater than zero (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91—mathematical calculations performed by computer); receiving the altered exit order, determining a potential profit comprising a difference between the entry price and the exit price for each of the shares of the security in the altered portfolio, and selecting one or more shares of the security from the altered portfolio to be included in the portion exited, wherein the selected shares comprise a potential profit less than or equal to a potential profit of each share of the security not selected (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); entry price comprises a purchase price, and the sorting comprises sorting the received data in the portfolio in order of descended purchase price (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91); and the entry price comprises a sales price, and the sorting comprises sorting the received data in the portfolio in order of ascending sales price (p.2, 21-24, 35; p.3, 37-50; p.4, 60; and p.4, 62 to p.5, 91).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M. Hamilton whose telephone number is (571) 272-6743. The examiner can normally be reached on Tuesday-Thursday (6:30-2:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Lalita M. Hamilton', is written over the printed name.

Lalita M. Hamilton
Primary Examiner, 3624